

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
adoption of NEW RULE I,) ON PROPOSED ADOPTION
regarding rules applicable to)
barbers, cosmetologists,)
electrologists, manicurists)
and estheticians)

TO: All Concerned Persons

1. On September 5, 2003, at 10:00 a.m. a public hearing will be held in room B-07 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed adoption of New Rule I related to the new Board of Barbers and Cosmetologists ("the new Board").

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Barbers and Cosmetologists no later than 5:00 p.m., August 29, 2003, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Executive Officer, P.O. Box 200513, Helena, MT 59620-0513; telephone (406) 841-2320; fax (406) 841-2305; or e-mail gberger@state.mt.us.

3. The new rule as proposed to be adopted provides as follows:

NEW RULE I INTERIM RULE (1) Beginning October 1, 2003, the inception date of the newly formed board of barbers and cosmetologists, and until such time as the newly formed board adopts its own substantive administrative rules, persons licensed by either the former board of barbers or the former board of cosmetologists shall continue to abide by and comply with the administrative rules of whichever board issued the person a license.

(2) Rules applicable to barbers, barbershops and schools may be found at ARM Title 24, chapter 120.

(3) Rules applicable to cosmetologists, electrologists, manicurists, estheticians, salons and schools may be found at ARM Title 24, chapter 132.

AUTH: 37-31-203, MCA

IMP: 37-1-131, 37-31-203, MCA

REASON: The 2003 Montana Legislature enacted Chapter 243, Laws of 2003 (House Bill 196), an act combining the existing Board of Barbers and the existing Board of Cosmetologists into one professional licensing board, the new Board of Barbers and

Cosmetologists ("the new Board"). The bill was signed by the Governor on April 8, 2003. The bill has an effective date of October 1, 2003.

The Department, on behalf of the new Board and with the concurrence of both existing Boards, believes there is reasonable necessity to adopt a new rule, to be applied on an interim basis, clarifying the application of the existing Boards' rules as of October 1, 2003, the effective date of Chapter 243, Laws of 2003, until such time as the new Board formally adopts substantive rules. It is the expectation of the Department, the Board of Barbers and the Board of Cosmetologists, that the existing rules of the Board of Barbers and the Board of Cosmetologists will be reviewed, consolidated and harmonized wherever practicable, and then formally adopted by the new Board. The Department intends to codify the rules of the new Board in ARM Title 24, chapter 121.

NEW RULE I is intended to be in effect only until the new Board is able to consolidate and harmonize the existing rules and then go through the notice and hearing rule-making process to formally adopt those consolidated rules. The Department, on behalf of the new Board, believes that there is reasonable necessity for the adoption of NEW RULE I so that licensees, prospective license applicants and the general public are aware of the standards that the new Board will be applying, starting October 1, 2003, during the interim period before the formal adoption of the new Board's own substantive rules. The Department, on behalf of the new Board, further believes that there is reasonable necessity to hold a public hearing on the proposed adoption of NEW RULE I as soon as is feasible, so that any perceived flaws in the proposed new rule can be addressed at the earliest possible date.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to Grace Berger, Executive Officer, P.O. Box 200513, Helena, MT 59620-0513; telephone (406) 841-2320; fax (406) 841-2305; or by e-mail to dlibsdbar@state.mt.us or dlibsdcos@state.mt.us and must be received no later than 5:00 p.m., September 12, 2003.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://www.discoveringmontana.com/dli/bar> and <http://www.discoveringmontana.com/dli/cos>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned

persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their names added to the list shall make a written request, which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdbar@state.mt.us or dlibsdcos@state.mt.us, or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

8. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

9. The Board of Barbers and Cosmetologists will meet at a date and time subsequent to the rules hearing to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed new rule. Advance public notice of the subsequent meeting will be provided. Members of the public and all interested persons are welcome to attend the meeting and listen to the Board's deliberations.

BOARD OF BARBERS
DELORES LUND, CHAIR

BOARD OF COSMETOLOGISTS
WENDELL PETERSEN, CHAIR

BOARD OF BARBERS AND
COSMETOLOGISTS

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State August 4, 2003.